

Before the  
Federal Communications Commission  
Washington, DC 20554

RECEIVED

MAY 17 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Amendment of Section 2.106 of the  
Commission's Rules to Allocate  
Spectrum at 2 GHz for Use by the  
Mobile-Satellite Service )

ET Docket No. 95-18

To: The Commission

**COMMENTS ON COMSAT CORPORATION'S  
SUPPLEMENTAL COMMENTS**

DOCKET FILE COPY ORIGINAL

BellSouth Corporation, on behalf of itself and its affected subsidiaries (collectively "BellSouth"), by their attorneys, submit comments in response to the Supplemental Comments of COMSAT Corporation ("COMSAT's Supplemental") filed on March 14, 1996, in the captioned docket. The Commission invited responses from interested parties in a Public Notice (DA 96-577) released April 17, 1996. BellSouth opposes COMSAT's alternative transition plan which would relieve COMSAT and other mobile-satellite service ("MSS") providers of any obligation to compensate existing terrestrial Fixed Service ("FS") operators in the 1990-2025 MHz band<sup>1</sup> and 2165-2200 MHz band<sup>2</sup> for relocating their facilities to other frequency bands.

No. of Copies rec'd  
List ABCDE

119

<sup>1</sup> This frequency band is allocated currently for use by television broadcast auxiliary stations. See Section 74.600 *et seq.* of the Commission's Rules, 47 C.F.R. §74.600 *et seq.* (1995).

<sup>2</sup> This frequency band is allocated currently for use by licensees in the Point-to-Point Microwave Radio Service (See 47 C.F.R. §21.701 (1995)), the Paging and Radiotelephone Service for point-to-point operation (See 47 C.F.R. §§22.591 and 22.602 (1995)), and the Private Operational-Fixed Radio Service (See 47 C.F.R. §94.65 (1995)).

## INTRODUCTION

BellSouth has been and will be impacted in a number of ways by the Commission's decision to create emerging technologies services. BellSouth has taken advantage of the new opportunities presented in the Broadband Personal Communications Service ("PCS") by becoming the B Block licensee in the Charlotte-Greensboro-Greenville-Raleigh and Knoxville Major Trading Areas (the "Charlotte MTA" and the "Knoxville MTA," respectively).<sup>3</sup> In those MTAs, as required by the Commission, BellSouth has reached agreements with private fixed microwave licensees to compensate them for the relocation of their microwave links. On the other hand, BellSouth Cellular Corp.'s cellular subsidiaries and affiliates have more than two hundred microwave links in the 2160-2200 MHz band which will be displaced if MSS providers are licensed and authorized to operate in that band. This potential displacement could be very disruptive to the cellular service BellSouth offers and against which MSS one day may compete. Like others with interests in Broadband PCS and cellular licenses, BellSouth is experiencing relocation as a Relocator and is preparing to become a Relocatee assuming the MSS industry gets the 2 GHz spectrum allocations it seeks. These comments are an attempt to reach an equilibrium between those views.

BellSouth filed comments in response to the Notice of Proposed Rule Making<sup>4</sup> in this proceeding.<sup>5</sup> BellSouth supported the proposed allocation of the 1990-2025 MHz

---

<sup>3</sup> BellSouth Personal Communications, Inc., holds Broadband PCS licenses KNLF213 and KNLF288 in the Charlotte MTA and the Knoxville MTA, respectively.

<sup>4</sup> *Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, Notice of Proposed Rule Making* in ET Docket No. 92-9, 10 F.C.C.R. 3230 (1995) (the "NPRM").

<sup>5</sup> See "Comments" filed by BellSouth on May 5, 1995.

band and the 2165-2200 MHz bands for MSS. However, BellSouth opposed reallocation of the 1970-1990 MHz band for MSS, instead of Personal Communications Service, and sought clarification concerning MSS users' relocation obligations.

## BACKGROUND

COMSAT argues that the 1995 World Radiocommunication Conference ("WRC-95") in its Final Acts determined that FS and MSS can share certain 2 GHz bands for a short period and encouraged relocation of FS operations out of the 2 GHz bands prior to implementation of global MSS systems by the year 2000. "[T]he WRC-95 Final Acts have actually specified the process for coordinating MSS and FS operations at 2 GHz for all affected [International Telecommunication Union] Administrations . . ."<sup>6</sup> According to COMSAT, these findings by WRC-95 warrant Commission approval of COMSAT's transition plan for FS users. Not surprisingly, the plan would relieve COMSAT and other MSS operators from any obligation to compensate FS users for their relocation expenses.

COMSAT also claims that "the terrestrial relocation costs . . . could reach \$3.0 billion -- an amount that could not be justified, even under the most optimistic MSS business plan."<sup>7</sup> If the Commission adopts the relocation plan proposed in the Notice of Proposed Rule Making in this docket, COMSAT claims, "it would effectively prohibit the implementation of new MSS technology in the 2 GHz bands."<sup>8</sup>

---

<sup>6</sup> See COMSAT's Supplemental, *supra*, at 4.

<sup>7</sup> See COMSAT's Supplemental, *supra*, at 3.

<sup>8</sup> *Id.*

## DISCUSSION

The regulatory paradigm has shifted. No longer is the Commission allocating scarce spectrum to competing commercial ventures at no cost.<sup>9</sup> However, COMSAT would have it otherwise for the MSS industry.<sup>10</sup>

A major influence in this paradigm shift is that there is no longer an abundance of usable spectrum. To compensate for the lack of spectrum, the Commission is displacing existing licensees to accommodate the projected needs of emerging technologies services, such as MSS.<sup>11</sup> However, the Commission is exacting a cost for such displacement. The entities being displaced are entitled to compensation from those benefiting from the displacement, *i.e.*, the emerging technologies service providers.<sup>12</sup>

COMSAT would have the Commission diverge from this new regimen for the MSS industry at 2 GHz. COMSAT claims a unique approach to MSS is justified by studies conducted in support of WRC-95. There the International Telecommunication Union Radiocommunication Sector ("ITU-R") noted in its Conference Preparatory Meeting Report ("ITU-R CPM Report"),<sup>13</sup> at 27, that, "Based on the studies undertaken in the 2 483.5 - 2 500 MHz and 2 160 - 2 200 MHz bands, sharing between non-

---

<sup>9</sup> See Section 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §309(j) (1995). See also *NPRM, supra*, at 3233 ("We believe that of the options for awarding MSS licenses, competitive bidding best serves the public interest by ensuring that the licenses are awarded to the entities that value them the most highly.")

<sup>10</sup> See COMSAT's Supplemental, *supra*, at 15, n.25 ("COMSAT, and indeed the entire MSS industry, has previously expressed its opposition to the use of auctions to award MSS licenses." (citations omitted))

<sup>11</sup> See *Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, First Report and Order and Third Notice of Proposed Rule Making* in ET Docket No. 92-9, 7 F.C.C.R. 6886, at 6888 (1992) ("ET First Report and Order").

<sup>12</sup> See Sections 21.50, 22.602 and 94.59 of the Commission's Rules, 47 C.F.R. §§ 21.50, 22.602 and 94.59 (1995).

<sup>13</sup> See COMSAT's Supplemental, *supra*, at 7.

GSO/MSS (space-to-Earth) systems and the FS should be feasible." According to COMSAT, these studies led to the adoption of Resolution COM5-10 which shows "that it is feasible to share the spectrum in the 2 GHz MSS downlink bands in the near term and to implement a gradual transition of FS systems over the long term to non-overlapping portions of the 2 GHz bands."<sup>14</sup> COMSAT uses this characterization to support its alternative transition plan. The driving reason behind the proposed plan is to relieve COMSAT and the MSS industry of their relocation obligations. This is clearly delineated by COMSAT in its filing when it states:

The gradual transition should ensure that the vast majority of FS equipment is substantially amortized prior to being replaced and that FS operators have sufficient time to plan for new installations in a different frequency band. Moreover, given the length of the transition period, there would be no need for MSS to reimburse FS operators for their expenses associated with the gradual transfer to new FS installations outside the 2 GHz MSS bands.

See COMSAT's Supplemental, *supra*, at 18-19.

The studies submitted to ITU-R are not part of the record in this proceeding nor were they part of COMSAT's out-of-time supplemental comments. Rather, COMSAT chose not to make them part of this docket. Given the current state of the record, the other parties (and the Commission) are left to speculate on the technical parameters assumed and the analytical tools employed in formulating the conclusions reached by those studies.<sup>15</sup> The studies supporting ITU-R's recommendations and conclusions may have no relevance to the FS environment in the United States. Indeed, if COMSAT had submitted the studies, parties would have had the opportunity to consider them in detail and

---

<sup>14</sup> See COMSAT's Supplemental, *supra*, at 8.

<sup>15</sup> See also "Partial Opposition of Motorola to COMSAT's Motion for Leave to File Supplemental Comments," filed March 27, 1996, at 3, and "UTC Opposition to Motion," filed April 1, 1996, at 3.

comment upon them. Rather, COMSAT begins with the ITU-R resolution and extrapolates it into a transition plan which relieves the MSS industry of its obligation to reimburse incumbents. Such undocumented studies and unwarranted extrapolation do not support a reversal of the Commission's earlier finding that the MSS industry must pay for relocating displaced incumbents.<sup>16</sup>

COMSAT also complains that the MSS industry cannot afford the \$3.0 billion costs it estimates the MSS industry will have to bear if it must pay for incumbents to vacate the relevant 2 GHz bands. COMSAT asserts no MSS business plan can support such a burden. Regardless, costs of this magnitude did not deter the Commission from imposing a similar relocation obligation on the Broadband Personal Communications Service ("PCS") industry, a likely MSS competitor.<sup>17</sup> Moreover, the Commission recently noted that the cost-sharing plan and the rule modifications adopted for the Broadband PCS spectrum "should apply to all emerging technology services, including those services in the 2110-2150 and 2160-2200 [MHz] band that have not yet been licensed, because the microwave relocation rules already apply to all emerging technology services."<sup>18</sup>

COMSAT has failed to show why, in this regard, it or the MSS industry warrants disparate regulatory treatment from other emerging technology services providers.

---

<sup>16</sup> See *ET First Report and Order*, *supra*, 7 F.C.C.R. at 6890.

<sup>17</sup> There are at least 4,500 microwave facilities in the Broadband PCS spectrum which must be relocated. The Commission determined the *sharable* costs for each of these facilities may range from \$250,000 to \$400,000, or from \$1.1 to \$1.8 billion. See *Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation, First Report and Order and Further Notice of Proposed Rule Making* in WT Docket No. 95-157, FCC 96-196 released April 30, 1996, Appendix A, at A-13-A-14 ("Microwave Relocation First Report and Order"). The actual costs may exceed these estimates.

<sup>18</sup> See *Microwave Relocation First Report and Order*, *supra*, at 44 (¶92) (footnote omitted).

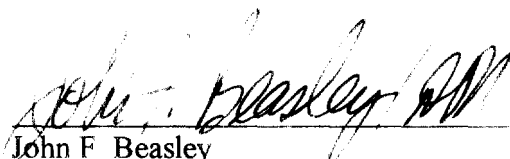
## CONCLUSION

BellSouth respectfully submits that COMSAT has not provided factual support (in the form of the ITU-R cited studies) to substantiate its claim that MSS and FS can share spectrum in the near term. Even if the spectrum can be shared for a period of time, the MSS industry should not be relieved of its obligation to compensate displaced incumbents for relocating to other means of communications. The Commission has decided this issue already. COMSAT's thinly-disguised effort at reconsideration is unwarranted and untimely. Accordingly, for the reasons stated above, BellSouth respectfully requests that the Commission reject COMSAT's alternative transition plan.

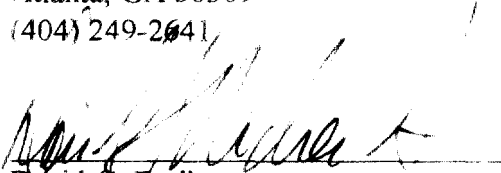
Respectfully submitted,

### BELLSOUTH CORPORATION

By

  
John F. Beasley  
William B. Barfield  
BellSouth Corporation  
1155 Peachtree Street, NE, Suite 1800  
Atlanta, GA 30309  
(404) 249-2641

By

  
David G. Frolio  
David G. Richards  
1133 21st Street, NW, Suite 900  
Washington, DC 20036  
(202) 463-4155

May 17, 1996

*Its Attorneys*

## CERTIFICATE OF SERVICE

I, Brett Kilbourne, hereby certify that the foregoing "Comments on COMSAT Corporation's Supplemental Comments" was served by hand delivery or first-class mail, postage pre-paid, this 17th day of May, 1996 on the following persons:

Audrey L. Allison\*  
Attorney Advisor  
Satellite & Radio Communication  
Division  
Federal Communications Commission  
2000 M Street, N.W.  
8th Floor  
Washington, D.C. 20554

Bruce D. Jacobs  
Fisher Wayland Cooper Leader &  
Zaragoza, L.L.P.  
2001 Pennsylvania Avenue, N.W.,  
Suite 400  
Washington, D.C. 20006

Bruce A. Franca\*  
Deputy Chief Engineer  
Office of Engineering and Technology  
Federal Communications Commission  
200 M Street, N.W.  
Room 416  
Washington, D.C. 20554

Cecily Holiday\*  
Deputy Chief  
Satellite and Radiocommunication  
Division  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
8th Floor  
Washington, D.C. 20554

Charles Iseman\*  
Chief, Spectrum Policy Branch  
Office of Engineering and Technology  
Federal Communications Commission  
2000 M Street, N.W.  
Room 424  
Washington, D.C. 20554

Nancy J. Thompson  
COMSAT International  
Communications  
6560 Rock Spring Drive  
Bethesda, MD 20817

Christopher D. Imlay  
Booth, Freret & Imlay  
1233 20th Street, Suite 204  
Washington, D.C. 20036

Damon C. Ladson\*  
Satellite and Radiocommunication  
Division  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
8th Floor  
Washington, D.C. 20554

David C. Jatlow  
Young & Jatlow  
2300 N Street, N.W., Suite 600  
Washington, D.C. 20037



Faith Yurdal  
Chairman  
CEPT-JPT ERC/ECTRA MSS  
General Directorate of  
Radiocommunications  
Telsiz Genel Murdurlugu  
06510 - Emek/Ankara  
TURKEY

Gary M. Epstein  
Latham & Watkins  
1001 Pennsylvania Avenue, N.W.  
Suite 1300  
Washington, D.C. 20004

George M. Kizer  
Telecommunications Industry  
Association  
2500 Wilson Boulevard, Suite 300  
Arlington, VA 22201

Gerald E. Oberst, Jr.  
Hogan & Hartson L.L.P.  
555 13th Street, N.W.  
Washington, D.C. 20004

Hary Ng\*  
Chief, Satellite Engineering Branch  
Satellite & Radiocommunication  
Division  
Federal Communications Commission  
2000 M Street, n  
8th Floor  
Washington, D.C. 20554

Henry Goldberg  
Goldberg, Godles, Wiener & Wright  
1229 Nineteenth Street, N.W.  
Washington, D.C. 20036

J. R. Woodhull  
Logicon, Inc.  
3701 Skypark Drive  
Torrance, CA 90505

James F. Lovette  
Apple Computer Inc.  
One Infinite Loop, MS: 301-4J  
Cupertino, CA 95014

James G. Ennis  
Iridium, Inc.  
1401 H Street, N.W.  
Washington, D.C. 22005

Jane Mago\*  
Senior Legal Advisor to Commissioner  
Chong  
Federal Communications Commission  
1919 M Street, N.W.  
Room 844  
Washington, D.C. 20554

Jeffrey L. Sheldon  
UTC  
1140 Connecticut Avenue, N.W.  
Suite 1140  
Washington, D.C. 20554

James L. Ball\*  
Associate Bureau Chief  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
Room 800  
Washington, D.C. 20554

John T. Scott, III  
Crowell & Moring  
1001 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004

John F.X. Browne  
President  
Association of Federal Communications  
Consulting Engineers  
P.O. Box 19333  
20th Street Station  
Washington, D.C. 20036

John Gilsenan  
Foreign Affairs Officer  
EB/CIP  
Department of State  
2201 C Street, N.W.  
Room 2318  
Washington, D.C. 20520

Johnathan D. Blake  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, D.C. 20044

Julius Genachowski\*  
Legal Advisor to Chairman Hundt  
Federal Communications Commission  
1919 M Street, N.W.  
Room 814  
Washington, D.C. 20554

Katherine M. Holden  
Wiley, Rein & Fielding  
1776 K Street, N.W.  
Washington, D.C. 20006

Lawrence Petak\*  
Chief, New Technology Development  
Division  
Office of Engineering & Technology  
Federal Communications Commission  
2000 M Street, N.W.  
Suite 230  
Washington, D.C. 20554

Leslie A. Taylor  
Leslie Taylor Associates  
6800 Carlynn Court  
Bethesda, MD 20817

Lon C. Levin  
Vice President and Regulatory Counsel  
Personal Communications Satellite  
Corporation  
10802 Parkridge Boulevard  
Reston, VA 22091

Mark J. Golden  
Personal Communications Industry  
Association  
1019 19th Street, N.W., Suite 1100  
Washington, D.C. 20036

David Siddall\*  
Legal Advisor to Commissioner Ness  
Federal Communications Commission  
1919 M Street, N.W.  
Room 832  
Washington, D.C. 20554

Michael D. Kennedy  
Motorola, Inc.  
1350 I Street, N.W.  
Washington, D.C. 20005

Michael Marcus\*  
Acting Chief  
Policy & Rules Division  
Office of Engineering & Technology  
Federal Communications Commission  
2000 M Street, N.W.  
Suite 480  
Washington, D.C. 20554

Norman P. Leventhal  
Leventhal, Senter & Lerman  
2000 K Street, N.W., Suite 600  
Washington, D.C. 20006

Olof Lundberg  
Chief Executive Officer  
I-CO Global Communications, Ltd.  
99 City Road  
London EC1Y, 1AX  
England, UNITED KINGDOM

Philip L. Malet  
Steptoe & Johnson  
1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Philip V. Otero  
GE American Communications, Inc.  
1750 Old Meadow Road  
McLean, VA 22101

Richard D. Parlow  
Associate Administrator  
Office of Spectrum Management  
NTIA  
U.S. Department of Commerce  
14th & Constitution Avenue, N.W.  
Room 4099  
Washington, D.C. 20230

Richard M. Smith\*  
Chief, Office of Engineering and  
Technology  
Federal Communications Commission  
2000 M Street, N.W.  
Suite 480  
Washington, D.C. 200554

Robert A. Mazer  
Rosenman & Colin  
1300 19th Street, N.W., Suite 200  
Washington, D.C. 20005

Robert J. Miller  
Gardere & Wynne, L.L.P.  
1601 Elm Street  
3000 Thanksgiving Tower  
Dallas, TX 75201

Robert M. Gurss  
Wilkes, Artis, Hedrick & Lane,  
Chartered  
1666 K Street, N.W.  
Washington, D.C. 20554

Rudy Baca  
Legal Advisor to Commissioner Quello  
Federal Communications Commission  
1919 M Street, N.W.  
Room 802  
Washington, D.C. 20006

Sam Antar  
Vice President Law & Regulation  
Capital Cities/ABC, Inc.  
77 West 66 Street  
New York, NY 10023

Donald Gips  
Acting  
International Bureau  
2000 M Street, N.W.  
Room 830  
Washington, D.C. 20554

Sean White\*  
Office of Engineering & Technology  
Federal Communications Commission  
2000 M Street, N.W.  
Suite 480  
Washington, D.C. 20554

Terri B. Natoli, Esq.  
Fleischman and Walsh, L.L.P.  
1400 Sixteenth Street, N.W.  
Washington, D.C. 20036

Thomas Tycz\*  
Chief  
Satellite & Radiocommunication  
Division  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
8th Floor  
Washington, D.C. 20554

Thomas J. Kellar  
Verner, Liipfert, Bernhard, McPherson  
and Hand, Chartered  
901 15th Street, N.W., Suite 700  
Washington, D.C. 20005

Marc Martin  
Skadden, Arps, Slate, Meagher & Flom  
1440 New York Avenue, N.W.  
Washington, D.C. 20005

Thomas P. Stanley\*  
Office of Plans & Policy  
Federal Communications Commission  
1919 M Street, N.W.  
Room 838D  
Washington, D.C. 20554

Tom W. Davidson, P.C.  
Akin, Gum, Strauss, Hauer & Feld,  
L.L.P.  
1333 New Hampshire Avenue, N.W.  
Suite 400  
Washington, D.C. 20036

Victor Tawil  
Vice President  
Association for Maximum Service  
Television, Inc.  
1776 Massachusetts Avenue, N.W.  
Suite 300  
Washington, D.C. 20036

Warren Richards  
Foreign Affairs Officer  
EB/CIP  
Department of State  
2201 C Street, N.W.  
Room 2318  
Washington, D.C. 20520

Wayne Watts  
Southwestern Bell Mobile Systems, Inc.  
175 East Huston Street  
Room 1146  
San Antonio, TX 782005

Wayne V. Black  
Keller and Heckman  
1001 G Street, Suite 500 West  
Washington, D.C. 20001

William Luther\*  
Chief, Radiocommunication Policy  
Branch  
Satellite & Radiocommunication  
Division  
International Bureau  
Federal Communications Commission  
2000 M Street, N.W.  
8th Floor  
Washington, D.C. 20554

Henry L. Baumann  
National Association of Broadcasters  
1771 N Street, N.W.  
Washington, D.C. 20036-2891

  
Brett Kilbourne

---

\*Denotes hand delivery